

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

BRADLEY A. LAU,) CASE NO. 8:09CV219
Plaintiff,)
vs.) MEMORANDUM, ORDER
ALDI, INC. (KANSAS), a Kansas) AND JUDGMENT
Corporation,)
Defendant.)

This matter is before the Court on the following: the Plaintiff's unopposed motion (Filing No. 25) to vacate the Court's orders of December 7, 2009, and December 11, 2009 (Filing Nos. 22 and 24), and to transfer this action to the Northern District of Ohio; and the Findings and Recommendation of Magistrate Judge F.A. Gossett recommending that the Plaintiff's motion be granted (Filing No. 29).

As Judge Gossett stated, the Court granted Plaintiff's motion to certify the case conditionally as a collective action on December 7, 2009. (Filing No. 22.) The Court approved the parties' Notice of Collective Action and Consent Form on December 11, 2009. (Filing No. 24.) Another collective action filed against "Aldi, Inc." in the Northern District of Ohio asserted the same allegations as those asserted by the Plaintiff in the present case. *McNelley v. Aldi, Inc.*, Case No. 1:09-cv-01868. "Aldi Inc." is the parent company of Defendant Aldi, Inc. (Kansas).

The class certified by the Northern District of Ohio in *McNelley v. Aldi* includes the class certified by the Court in this case. Further, as the subsidiary of "Aldi, Inc.", the Defendant is subject to personal jurisdiction in the Northern District of Ohio and the action could have been brought there. Defendants do not oppose Plaintiff's motion to vacate the

Court's orders and transfer venue. Further, Defendant has indicated it has no objections to the Findings and Recommendation. The Court therefore concludes that in light of the history of this case and the absence of any objections, the Findings and Recommendation should be adopted and Plaintiff's motion should be granted.

Accordingly,

IT IS ORDERED:

1. The Findings and Recommendation (Filing No. 29) are adopted in their entirety;
2. The Plaintiff's Motion to Vacate and Transfer Venue (Filing No. 25) is granted;
3. The Court's Orders of December 7, 2009 (Filing No. 22), and December 11, 2009 (Filing No. 24), are vacated;
4. The case shall be transferred to the United States District Court for the Northern District of Ohio; and
5. The Clerk of the Court shall take every action needed to accomplish the transfer and to terminate this case for statistical purposes.

DATED this 17th day of February, 2010.

BY THE COURT:

s/Laurie Smith Camp
United States District Judge